

3.2 JRB Responsibilities

This section provides details on the duties of the Joint Review Board (JRB) and the information they receive. The TIF Law lists the precise material and information that must be provided to the JRB, and orders them to make a positive assertion that the planned development would not occur without the assistance provided by TIF. The criteria for making a decision to approve or deny a TID are also laid out in the TIF Law, and explained here.

JRB Procedure

Initial Meeting – Before the public notice appears in the paper, the municipality must send the overlying taxing jurisdictions a letter to request that they select a representative to serve on the Joint Review Board. The JRB is required to hold its initial meeting before the public hearing takes place, and within 14 days of publication of the public notice. At this initial meeting the representatives must vote on a public member to complete the membership of the JRB, and they must vote on one of the members to serve as Chair. These are the only two required actions at this meeting, but the meeting may include explanations of the new TID. More details on membership are available in Section 3.1 of this manual.

According to 66.1105 (4m)(b) 4m., the JRB must also “notify prospectively” the governing bodies of any overlying taxing jurisdiction that is not represented on the JRB, but has authority to tax property in the TID. For example, if two school districts and a union high school district serve the property in the TID, only one school district and the union high district would serve on the JRB (they would actually share one seat). This means the JRB would have to notify the school district that is not on the board (the one with less property value in the district) of the board’s meetings and agendas. This applies likewise to special districts that have taxing authority over property in the TID, but do not have representation on the JRB.

Review Project Plan – Once the municipal planning commission has adopted a project plan, the JRB members may begin to review the details of the planned development and any planning documents that support the project plan. The project plan must contain a detailed list of projects, and projections of expenditure and revenue for the life of the TID. The JRB should examine the details of the plan carefully, and question the assumptions that are made in the plan when appropriate. If so desired, the JRB can hold additional hearings on the proposed TID, but these must happen within the timeline for JRB action.

Please Note: The project plan that is adopted by the municipal governing body may be different than the one adopted by the planning commission. The plan adopted by the governing body, however, will be the official plan for the district.

Adopt Resolution – Following the approval of a project plan and TID boundaries by the planning commission, the municipal governing body must deliberate and adopt a creation resolution, officially designating the newly created TID. This resolution is then sent to the JRB. The JRB must vote within 30 days of *receiving* the creation resolution from the

municipal governing body to approve or deny the creation of the TID. Voting to approve the resolution means that the TID will be created, and a request for certification will be sent to the DOR. It is imperative that the JRB resolution contain the positive assertion that the development would not occur without the creation of the TID. This element is required by law, and missing this assertion could result in delayed certification.

As long as all procedures were followed correctly, the DOR will certify the TID after January 1 of the year following the year in which the resolutions are adopted (unless the resolutions are adopted between 10/1 and 12/31, in which case certification will happen two years hence). If the JRB votes to deny the creation of the TID, no request is sent to the DOR. The municipality may alter the project plan or TID boundaries and begin the process again, or they may decide not to create this particular TID. The JRB has the final say on approving TID creations.

It is important to note that these same responsibilities apply not only TID creation, but to TID amendments as well.

Decision Criteria

The TIF Law provides precise criteria for the JRB members to make their decision. They are also responsible to make a critical finding: that the development would not occur without the creation of a TID. This is called the "but for" test, and it is the key underpinning of TIF, both practically and philosophically. More information on the "but for" test is available in Section 5.1 of this manual.

The decision criteria are put forth in s. 66.1105 (4m)(c). They are:

- ✓ whether the development expected in the TID would occur without the use of TIF,
- ✓ whether the economic benefits of the TID, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements, and
- ✓ whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

The first criterion is essential for approval; this is the required "but for" finding. The positive assertion means that the planned development would not be possible without the support provided by TIF. Due to the demands of certain kinds of development, infrastructure costs and other expenses can be large enough to erase any potential profits for the developer. By using TIF to provide for infrastructure, remediation, property assembly and other costs, the development can become profitable, and therefore the development would not occur without the use of TIF.

Please Note: Without a positive assertion from the JRB that, in fact, the development does need the TIF support, the TID cannot be certified.

The second criterion asks the JRB to consider a cost-benefit analysis of the proposed district. The costs to the municipality for the improvements to the district mean that there is less money to spend on other things. These costs must be compensated by

economic benefits, such as new jobs and increased incomes and property values. Information must be gathered with respect to the anticipated benefits that the development will bring. Assumptions must be made as to the value of these benefits (How much should we spend to create one new job?). In the end, the JRB members must decide that the benefits, on the whole, are worth the cost of the investments being made in the TID.

The final criterion looks more at the distribution of long-term benefits from the TID. All of the overlying taxing jurisdictions will, once the TID is terminated, share in the expanded tax base. That is why they agree to work together on the TIF project. The JRB members must decide if the expected benefits are enough to outweigh the contributions made by the taxpayers in the overlying districts. Taxpayers throughout the county, school and technical college districts will be contributing tax revenue for projects in a TID. The tax increments paid by the overlying taxing jurisdictions are forgone revenue that cannot be used to fund the delivery of services. The benefits of the TID must, therefore, reach the taxpayers beyond the TID's boundary in order to find that they outweigh the increments paid.

If the JRB rejects a proposal, they must issue a written statement explaining why the proposal failed to meet one of these three criteria.

Sources of Information

The TIF Law mentions the type of information that the JRB should receive in s. 66.1105 (4m)(b) 1. Members are instructed to review "the public record, planning documents and the resolution passed by" the planning commission or the local governing body. Items from the public record should be available from the municipal clerk, and would include minutes from public meetings and public hearings. The planning documents should be available from the planning commission or the consultants/developers that are supporting the TIF application, and would include the project plan as well as any supporting material for the plan (projections, forecasts, estimates, etc.). The resolutions should be forwarded to the JRB when they are asked to give approval. The findings in these resolutions, and the stated intent if any, should be taken into account during the review. The JRB is also permitted to hold additional hearings on the proposed TID as part of the deliberations.

The JRB members can also vote to request a DOR Review of the objective facts contained in any of the documents mentioned above. The DOR must determine whether the information contains a factual inaccuracy or complies with the TIF Law requirements. The request must be in writing, and must specify which particular objective fact or item the members believe is incomplete or inaccurate. TIF Law lays out a detailed time line for responding to such requests, and for the JRB reacting to the findings and notifying the municipal governing body of their decision. For more information see Section 4.1 DOR Role.

More information on the Joint Review Board is available on the DOR Website, in the Joint Review Board [Supplemental Data](#) publication.